IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.10217 OF 2004

Runal Ravindra Acharekar : Petitioner
V/s.
State of Maharashtra & Ors. : Respondents

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Mr.P. R. Arjunwadkar for the petitioner.
Mr.P. I. Khemani, Assistant Government Pleader for respondent Nos.1 & 2.
Mr. R. V. Govilkar for respondent No.3.

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CORAM : DALVEER BHANDARI, C.J. &
S.A. BOBDE, J.

DATE : MARCH 4, 2005.

P.C.:

1. The petitioner has sought a writ that he be declared as eligible for admission to the Third Year of three-year Diploma Course in Information Technology and for a direction to respondent Nos.2 and 3 i.e. the Director, Maharashtra State Board of Technical Education, and the Principal, Shriram Polytechnic, to treat him as an eligible student and allow him to join and continue Third Year of three-year Diploma Course in Information Technology.

2. The entire basis of the petitioner's prayer is that he has passed the Second Year in the winter session of the year 2002. According to the petitioner, the fact that he failed in the examination held in summer 2004 for the second time is of no consequence.

3. Having heard the learned counsel for both sides, the position that emerges is as follows:-

The petitioner was enrolled for the Three Year Diploma Course in Information Technology. He appeared for the First Year examination and desired to switch over to another steam. It is not disputed that he had not passed the subject of “Fundamental of Electrical Engineering” which is a compulsory subject for the First Year of the Diploma. He, nonetheless, applied for admission to the Second Year of the Diploma along with necessary mark-sheets and Certificate to respondent no.2 who admitted him to the Second Year subject to the fact that he had a backlog subject in “Fundamental of Electrical Engineering” and would appear for it in the winter examination in the said

subject. He appears to have been declared passed by respondent no.2 in the said subject. However, the result of the winter examination of the year 2003 in which he was declared passed in the First Year was cancelled. He has not challenged this cancellation. This was communicated to him by the letter dated 19.3.2004. As a result, the petitioner re-appeared for the examination in the said subject in the summer 2004. Admittedly, this time, he failed. It is, therefore, clear that the petitioner has not passed all the subjects of the First Year itself.

4. The respondent No.2 has stated that the examinations were cancelled due to a breach of the rules committed by the various institutions, including the respondent-institution in permitting students to appear for all the examination/backlog subjects, even though such students were only entitled to appear in the subject of Information Technology. The petitioner has not challenged the cancellation of the results of the winter examination of the year 2002 in which he appeared for the backlog subject of the First Year. It is, therefore, clear that the petitioner has not cleared all

the subjects of the First Year. Admittedly, he has failed in the backlog subject of the first year when he re-appeared for it. Clearly therefore, he is not entitled to admission in the Third Year.

5. In these circumstances, we are not inclined to grant any relief to the petitioner for being considered for admission to the Third Year course since he has not cleared all the subjects of the First Year as yet. Nothing is shown in any rules which entitles the petitioner to such relief.

6. In the result, there is no merit in the petition which is hereby dismissed.

Sd/-

CHIEF JUSTICE

Sd/-

S.A. BOBDE, J.